

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X

PALM BAY INTERNATIONAL, INC.,

Plaintiff,

- against -

**JUDGMENT**

CV-09-0599 (ADS)(AKT)

MARCHESI DI BAROLO S.P.A.,

Defendant.

-----X

DAVID S. TAUB and MARC TAUB,

Plaintiffs,

-against-

MARCHESI DI BAROLO S.P.A.,

Defendant.

-----X

A Memorandum of Decision and Order of Honorable Arthur D. Spatt, United States District Judge, having been filed on July 11, 2011, denying the motion by the plaintiffs Palm Bay International and David and Marc Taub for judgment as a matter of law pursuant to Fed. R. Civ. 50(b), or for a new trial pursuant to Fed. R. Civ. 59 (1) as to the plaintiff Palm Bay cause of action for breach of the implied warranty of merchantability and (2) as to the third counterclaim based on the Dispute Resolution Provision in the Importation Agreement; granting the motion by the plaintiffs for judgment as a matter of law pursuant to Fed. R. Civ. 50(b) as to the sixth counterclaim against David Taub and Marc Taub for breach of their fiduciary duty in instructing Palm Bay to take the set-off; dismissing the sixth counterclaim as a matter of law; and directing the Clerk of Court to enter judgment accordingly and to close this case, it is

**ORDERED AND ADJUDGED** that the motion by the plaintiffs Palm Bay International and David and Marc Taub for judgment as a matter of law, pursuant to Fed. R. Civ. 50(b), or for a new trial pursuant to Fed. R. Civ. 59 (1) as to the plaintiff Palm Bay cause of action for breach of the implied warranty of merchantability and (2) as to the third counterclaim based on the

Dispute Resolution Provision in the Importation Agreement is denied; that the motion by the plaintiffs for judgment as a matter of law pursuant to Fed. R. Civ. 50(b) as to the sixth counterclaim against David Taub and Marc Taub for breach of their fiduciary duty in instructing Palm Bay to take the set-off is granted; that the sixth counterclaim is dismissed as a matter of law; and that this case is hereby closed.

Dated: Central Islip, New York  
July 15, 2011

ROBERT C. HEINEMANN  
CLERK OF THE COURT

By: /s/ Catherine Vukovich  
Deputy Clerk